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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HILLCREST INVESTMENTS, LTD., a
foreign corporation,

Plaintiff,

vs.

AMERICAN BORATE COMPANY, a
California General Partnership,

Defendants.

Case No.: 2:15-cv-01613-RFB-GWF

**STIPULATION AND ORDER TO STAY
DISCOVERY PENDING RULING ON
OUTSTANDING MOTION TO DISMISS**

(First Request)

WHEREAS, on August 21, 2015, Defendant American Borate Company (“American Borate”) filed a motion to dismiss the Complaint in the above-captioned action (the “Motion” Dkt. #3);

WHEREAS, plaintiff Hillcrest Investments, Ltd. (“Hillcrest”) filed a written opposition to the same on September 17, 2015 (Dkt. #11), and American Borate filed a reply on September 28, 2015 (Dkt. #13);

WHEREAS, until the Court decides the Motion, the parties wish to stay discovery, including the conference, discovery plan and report required by Rule 26(f) of the Federal Rules of Civil Procedure (“FRCP”) and Rule 26-1(d) of the Local Rules of Practice for the United States District Court for the District of Nevada (“LR”), and the initial disclosures required by FRCP 26(a);

WHEREAS, as of the date of this Stipulation, the parties have not completed any discovery, nor are there any outstanding discovery requests; and

1 **WHEREAS**, good cause exists to stay discovery in this action because (a) the Motion
2 challenges, among other things, whether the current action is barred by certain statutes of limitation
3 and the doctrines of issue and claim preclusion, and whether Hillcrest has stated a cause of action
4 upon which this Court can grant relief, (b) these are dispositive issues for the above-captioned case
5 and purely legal questions, (c) staying discovery until the Court decides the Motion will prevent the
6 parties from expending litigation resources before the Court has ruled on these dispositive issues, (d)
7 both parties join in this request, (e) a stay encourages judicial economy by ensuring that unnecessary
8 discovery disputes do not arise before the Motion is heard, and (f) there are no existing
9 counterclaims and/or cross-claims at this time that require additional factual discovery.

10 **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among the
11 parties, through their undersigned counsel, pursuant to FRCP 26 and LR 6-2, 7-1, and 26-4, that
12 discovery shall be stayed in this case until such time as the Court can rule on the Motion, except that
13 if the Court determines that discovery on any issue raised in the Motion is necessary to resolve it,
14 this stay shall not apply to discovery on that issue, which the parties will exchange expeditiously;

15 **IT IS FURTHER STIPULATED AND AGREED** that, in the event the Court denies the
16 Motion, American Borate shall file a responsive pleading not more than thirty (30) days after the
17 Court decides the Motion or as the Court may otherwise instruct in response to an amended
18 pleading;

19 **IT IS FURTHER STIPULATED AND AGREED** that, in the event the Court denies the
20 Motion, the parties shall conduct the conference required by FRCP 26(f) (the "Rule 26(f)
21 Conference") by no later than thirty (30) days after American Borate files an Answer, and will
22 submit the discovery plan and scheduling order required by FRCP 26(f) and LR 26-1(d) by no later
23 than fourteen (14) days after the Rule 26(f) Conference; and

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1 **IT IS FURTHER STIPULATED AND AGREED** that this Stipulation is entered into in
2 good faith and not for the purposes of delay, and is not intended to waive any of the substantive or
3 procedural right of the parties. The parties have not previously requested any extensions of the
4 discovery deadlines.

5 Dated: November 19th, 2015

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7 LIZADA LAW FIRM, LTD.

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8
9 /s/ Angela L. Lizada
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14 *Attorneys for Plaintiff Hillcrest*
15 *Investments, Ltd*

Attorneys for Defendant American Borate
Company

16
17 **IT IS SO ORDERED:**

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19 UNITED STATES MAGISTRATE JUDGE

20 DATED: November 20, 2015